

California Regional Water Quality Control Board
North Coast Region

Administrative Civil Liability Order No. R1-2002-0092

For

Violations of
California Water Code Section 13267

Hopland Public Utilities District
WDID No. 1B801540MEN

Mendocino County

This Order to assess Civil Liability pursuant to California Water Code Sections 13268 and 13323 is issued to Hopland Public Utilities District (hereinafter Discharger), for violations of Monitoring and Reporting Program No. 93-11 issued pursuant to California Water Code Section 13267(b) for the period June 1, 2000, through July 31, 2002.

The California Regional Water Quality Control Board, North Coast Region (Regional Water Board) finds the following:

1. On January 8, 1993, the Regional Water Board adopted Waste Discharge Requirements, Board Order 93-11 (WDRs) that included Monitoring and Reporting Program No. 93-11 to regulate discharges of waste from the Discharger's wastewater collection, treatment and disposal system.
2. The Discharger violated permit conditions contained in the WDRs by failing to submit required self-monitoring reports, for which the Regional Water Board may impose Civil Liability under Section 13268(b)(1) of the California Water Code (CWC).
3. Of the monthly self-monitoring reports due during the period of June 1, 2000, to July 31, 2002, the Discharger failed to submit 12 reports and submitted nine reports late, violating Section 13267(b) of the CWC.
 - a. Provision D.7 of the WDRs requires the Discharger to submit monthly self-monitoring reports in accordance with the Monitoring and Reporting Program. Monitoring and Reporting Program No. 93-11 requires that samples be collected and analyzed weekly for BOD, Settleable Matter, Suspended Solids, and Coliform Organisms. Additionally, Chlorine Residual and Hydrogen Ion require daily monitoring.
 - b. On June 19, 2001, the Regional Water Board Executive Officer issued a Notice of Violation (NOV) to the Discharger for non-submittal of self-monitoring reports. The NOV was hand delivered to Evert Jacobson, General Manager of the Hopland Public

Utilities District by Regional Water Board staff member Mona Dougherty on June 21, 2001. The NOV stated that unless submittal of self-monitoring reports was resumed, the Regional Water Board would take appropriate enforcement action under the authority of the CWC.

4. CWC Section 13268(b)(1) provides for the imposition of Civil Liabilities against any person failing to submit monitoring reports. For violations of CWC Section 13267, Section 13268(b)(1) authorizes the Regional Water Board to impose Civil Liability in an amount not to exceed the sum of \$1,000 for each day in which the violation occurs. The maximum total Civil Liability that could be imposed against the Discharger in this matter is calculated as follows:

$$7,662 \text{ days of violation at } \$1,000 \text{ per day} = \underline{\$7,662,000}$$

A day of violation has accrued every day that a self-monitoring report was past due through July 31, 2002. The days of violation for each self-monitoring report not submitted or submitted late are summarized as follows:

Monitoring Report	Date Due	Date Received	Days of Violation
June 2000	July 15, 2000	Not Submitted	746
July 2000	August 15, 2000	Not Submitted	715
August 2000	September 15, 2000	Not Submitted	684
September 2000	October 15, 2000	Not Submitted	654
October 2000	November 15, 2000	Not Submitted	623
November 2000	December 15, 2000	Not Submitted	593
December 2000	January 15, 2001	Not Submitted	562
January 2001	February 15, 2001	July 29, 2002	529
June 2001	July 15, 2001	Not Submitted	381
July 2001	August 15, 2001	July 29, 2002	348
August 2001	September 15, 2001	July 29, 2002	317
September 2001	October 15, 2001	July 29, 2002	287
October 2001	November 15, 2001	Not Submitted	258
November 2001	December 15, 2001	Not Submitted	228
December 2001	January 15, 2002	Not Submitted	197
January 2002	February 15, 2002	July 29, 2002	164
February 2002	March 15, 2002	July 29, 2002	136
March 2002	April 15, 2002	July 29, 2002	105
April 2002	May 15, 2002	July 29, 2002	75
May 2002	June 15, 2002	Not Submitted	46
June 2002	July 15, 2002	July 29, 2002	14
Total			7,662

5. In determining the amount of any Civil Liability, pursuant to CWC Section 13327, the Regional Water Board must take into account the nature, circumstance, extent, and gravity of the violation; whether the discharge is susceptible to cleanup or abatement; the degree of toxicity of the discharge; and with respect to the violator, the ability to pay; the ability to continue business; voluntary cleanup efforts; prior history of violations; the degree of culpability; economic benefit or savings resulting from the violation; and other matters that justice may require.

A. Nature, Circumstance, Extent, and Gravity of the Violations

The review of self-monitoring reports provides Regional Water Board staff the best indicator for treatment process performance and impact to water quality from the effluent discharge. Substandard operation and maintenance of the facility have the potential to impact water quality and public health.

The State Water Resources Control Board's Enforcement Policy contains a list of "priority" violations. One such violation is the submittal of reports required by Section 13267 of the CWC more than 30 days late. Of the 21 overdue self-monitoring reports, 20 of them were more than 30 days late as of July 31, 2002. The policy also recommends progressive enforcement for dealing with repeat violations. The Discharger has received several verbal warnings and a Notice of Violation regarding non-submittal of self-monitoring reports. The Discharger has ignored the Notice of Violation.

Consideration of the nature, circumstance, extent, and gravity of the violations does not provide reason for reduction from the maximum the amount of Civil Liability to be imposed.

B. Susceptibility to Cleanup or Abatement

This does not apply to the nature of the violations.

Consideration of susceptibility to cleanup or abatement does not provide reason for reduction from the maximum the amount of Civil Liability to be imposed.

C. Degree of Toxicity

This does not apply to the nature of the violations.

Consideration of the degree of toxicity of the violations does not provide reason for reducing the amount of Civil Liability to be imposed.

D. Ability to Pay

The Discharger operates a small wastewater treatment facility in rural Mendocino County. Although the Discharger has not submitted any information to the Regional Water Board indicating that they are in a financial position that would prevent them from remitting an imposed fine, Regional Water Board staff assumes that the Discharger has a small annual operation budget.

Consideration of the Discharger's ability to pay does provide reason for reducing the amount of Civil Liability to be imposed.

E. Effect on Ability to Continue Business

Imposition of the maximum Civil Liability would likely have an effect on the Discharger's ability to continue business.

Consideration of effect on ability to continue business does provide reason for reducing the amount of Civil Liability.

F. Voluntary Cleanup Efforts

This does not apply to the nature of the violations.

Consideration of voluntary cleanup efforts does not provide reason for reduction from the maximum the amount of liability to be imposed.

G. Prior History of Violations

The Discharger failed to submit three monthly self-monitoring reports and submitted eight self-monitoring reports late between October 1999 and May 2001. These violations are not included in this Administrative Civil Liability Order.

Consideration of prior history of violations does not provide reason for reduction from the maximum the amount of Civil Liability to be imposed.

H. Degree of Culpability

The WDRs issued require the Discharger to submit monthly self-monitoring reports. The Discharger has failed to submit these reports as required by the WDRs and the NOV.

Consideration of the degree of culpability does not provide reason for reducing from the maximum amount of Civil Liability to be imposed.

I. Economic Savings Resulting from the Violation

The Discharger received economic savings resulting from the failure to submit self-monitoring reports. The Discharger's economic savings for laboratory costs for the required analyses at Alpha Analytical in Ukiah, California, are estimated at \$14,515. The Laboratory costs and monitoring frequency used to calculate the laboratory economic savings are reported as follows:

Constituent to be Monitored	Monitoring Frequency	Months not Reported	Cost of Analyses	Total Cost
BOD	4/month (48) ¹	12	\$33	\$1,584
TSS	4/month (48)	12	\$17	\$816
Total Coliform	4/month (48)	12	\$35	\$1,680
Settleable Solids	4/month (84) ²	21	\$15	\$1,260
Chlorine Residual	daily (367) ³	12	\$15	\$5,505
pH	daily (367)	12	\$10	\$3,670
Total				\$14,515

The Discharger's economic savings for staff time for sampling and reporting is estimated at \$6,240 based on the following:

Hopland PUD Staff Member	Estimated Hours Required for Monitoring and Reporting	Total Cost (\$65/Hour)
Evert Jacobson	2 hours/week (96) ⁴	\$6,240

Consideration of the economic savings resulting from the violation does not provide reason for reducing from the maximum the amount of Civil Liability to be imposed.

¹ Monitoring and Reporting (M&R) Program No. 93-11 requires weekly sampling for this constituent. Estimate developed equating a month to four weeks and multiplying by 12, the number of months with no report submitted. Total of 48 required analyses.

² M&R Program No. 93-11 requires weekly sampling for this constituent. Estimate developed equating a month to four weeks and multiplying by 21, the number of months with no report submitted. Total of 84 required analyses.

³ M&R Program No. 93-11 requires daily sampling for this constituent. The 12 months with no report submitted encompassed 367 days. Total of 367 required analyses.

⁴ Regional Water Board staff estimated 2 hours a week for Discharger staff time to perform sampling and reporting and estimated that each month contained four weeks and then multiplied this number by 12 months that had not been reported, for a total of 96 hours.

J. Other Matters as Justice May Require

Regional Water Board staff costs are estimated to be approximately \$4,485 based on the following:

Regional Water Board Staff Member	Hours Worked	Total Cost (\$65/Hour)
Mona Dougherty	45	\$2,925
Administrative Unit	6	\$390
John Short	6	\$390
Robert Tancreto	6	\$390
Erik Spiess	6	\$390
Total		\$4,485

Consideration of other matters as justice may require does not provide reason for reducing from the maximum the amount of Civil Liability to be imposed.

6. The adoption of this Order is an enforcement action to protect the environment, and is therefore exempt from the provisions of the California Environmental Quality Act (Public Resources Code section 21000 et seq.) pursuant to Title 14, California Code of Regulations, sections 15308 and 15321(a)(2).

PROPOSED CIVIL LIABILITY

Based on the foregoing the Regional Water Board staff hereby proposes that the Discharger pay an Administrative Civil Liability in the amount of \$45,000 dollars due and payable within 30 days of the adoption of this Order.

Certification

I, Susan A. Warner, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, North Coast Region, on September 26, 2002.

Susan A. Warner
Executive Officer